

LINDA LINGLE  
GOVERNOR OF HAWAII



PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
DEPUTY DIRECTOR - WATER

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**CONSERVATION DISTRICT USE APPLICATION  
STATE MARINE WATERS  
INSTRUCTIONS**

This is the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), marine activities Conservation District Use Application (CDUA) for use of State Marine Waters. Marine activities are defined as, "ocean thermal energy conversion (OTEC); mariculture; and other energy or water, research, scientific, and educational activities in, on, or under state marine waters or submerged lands." Mariculture means the cultivation and production for research, development, and demonstration purposes of plants and animals within the State's marine environment. Visit <http://www.state.hi.us/dlnr/occl/> for more information about the State Land Use (SLU) Conservation District.

Pursuant to Hawaii Revised Statutes (HRS), Chapters 183C, and Chapter 190D, the Board of Land and Natural Resources (BLNR) regulates marine activities by the issuance of a CDUA Permit. The applicant must also contact the appropriate Land Division office to lease marine waters for marine activities. For a detailed discussion of Ocean Leasing procedures refer to Part III 190D-21 titled leasing of state marine waters and submerged lands for private uses. All marine activities that require a CDUA and lease request for marine activities be filed with the DLNR, and approved by the BLNR prior to project implementation.

The following provisions apply to HRS, Section 190D-21, LEASING OF STATE MARINE WATERS AND SUBMERGED LANDS FOR PRIVATE USES notes:

- a) the board may lease state marine waters and submerged lands for marine activities upon compliance with Section 171-53 and with the concurrence of the director of transportation. Leases may only be issued only for marine activities, which are allowed pursuant to an approved conservation district use application. The board shall make a determination that each lease is a commercial or noncommercial lease;
- (b) the board shall not lease state marine waters when existing programs of the department, such as the marine life conservation district program, shoreline fisheries management area program, or the natural area reserves program will suffer adverse impacts as a consequence of the proposed activities; provided further that no lease shall be awarded within state marine waters designated necessary for national defense purposes, as determined by the department in consultation with the appropriate federal agencies;
- c) the board shall not lease state marine waters or submerge lands unless the board finds that the lease for the proposed activity is clearly in the public interest upon

consideration of the of the overall economic, social, and environmental impacts and consistent with other state policy goals and objectives;

d) the board shall not lease state marine waters or submerged lands unless the board finds that the applicant for a lease has complied with applicable federal, state, and county statutes, ordinances, and rules;

e) the board may require any person who has obtained approval of a conservation district use application for marine activities or the operation of an OTEC facility in state marine waters or submerged lands to enter into a lease for the conduct of those activities; and

f) the Board shall not approve an application, if in so doing it would fail to protect the public's use and enjoyment of the reefs in the state marine waters.

Please utilize applicable sections of Hawaii Administrative Rules (HAR), Chapter 13-5, Conservation District Rules and Regulations, and HRS, Chapter 190D-21 to complete the CDUA. A CDUA is not considered accepted for processing until the department has found the application to be complete and issues an acceptance letter.

All applications must include the following to be considered "complete" for processing:

- A completed CDUA form. Where the landowner is the State of Hawaii, the application requires the signature of the Chairperson of the Board of Land and Natural Resources;
- Environmental review information required pursuant to HRS, Department of Health (DOH), Chapter 343;
- Compliance with applicable County Special Management Area (SMA) Rules and Regulations must be satisfied prior to action on the CDUA; and
- The appropriate filing fees as specified pursuant to HAR, Chapter 13-5, Section 13-5-32, FEES.

Twenty (20) copies of the completed CDUA and all attachments, and twenty (20) copies of the environmental assessment (EA) as required must be submitted. Applications should be typed and attachments should be reduced or folded to letter-size exhibit(s) (8½" x 11").

Application(s) and attachment(s) should be mailed to:

or hand delivered to:

Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
P.O. Box 621  
Honolulu, Hawaii 96809

Office of Conservation and Coastal Lands  
Kalanimoku Building, Room 220  
1151 Punchbowl Street  
Honolulu, Hawaii 96809

For information call: 587-0377. You may download the CDUA and HAR, Chapter 13-5, Conservation District Rules and Regulations at <http://www.state.hi.us/dlnr/occl/documents.php>.

## REQUIRED INFORMATION

For information presented in the Environmental Assessment (EA), please reproduce and attach relevant information in the CDUA. For large projects that require an Environmental Impact

Statement (EIS), the CDUA must be supplemented with detailed project and environmental information.

## 1. County Special Management Area Determination

Applications may be subject to County Special Management Area (SMA) requirements. One of the following must be received from the applicable County thirty (30) days prior to Board action on your CDUA:

- A determination that the proposed land use(s) is outside the Special Management Area (SMA) administered by the County;
- A determination that the proposed land use is exempt from the provisions of the County ordinances/regulations specific to HRS, Section 205A-29 (b); and
- A Special Management Area permit for the proposed use. (Note: An SMA permit or clearance **must** be received by the Department forty-five (45) days prior to the 180 day expiration deadline on an application.)

## 2. Maps

Maps should include a north arrow and graphic scale. Attach regional, vicinity and parcel maps. Utilities, roads and access should be presented on a map and applicable. Marine biota, and historic sites should also be presented on a map. Submit detailed contour maps for ocean areas and areas where slopes are 20% or more. Include a bathometric map or depth chart.

## 3. Photographs

Current color photographs of the area should be submitted with each EA/CDUA. Electronic storage of information such as computer floppies and/or Cd Roms should be provided to the OCCL to help expedite the processing of applications.

## 4. Plans

All CDUAs, and EAs shall contain the following associated plans:

Location/Area Plan. An area plan should include but not be limited to: 1) the relationship of proposed uses to existing uses in abutting areas; 2) identification of major existing facilities (if applicable); and 3); identification of major physical features. If the project abuts or is adjacent to fast land, please include names and addresses of adjacent owners.

Site Plan. Site plans are maps that should include, but are not limited to: 1) diagrams of the general proposed project; 2) general area affected. If the use is for aquaculture the following should be identified: 1) cage dimensions; 2) diagrams of the cages; 3) cage anchoring and mooring system; 4) water currents; 5) adjacent landowners of applicable; 6) corral environments; and 7) endangered and/or threatened species habitat.

Emergency Response Plan. Describe what actions will be taken to respond to disease, severe weather, disaster, tsunami, theft, vandalism and other potential crisis situations.

Business Plan. Discuss project financing. List a breakdown of project funding, the source and amounts. List grants and loans received or applied for and all state or county funds involved, including federal or other funds administered by state or county agencies. For

commercial applications, discuss production levels and product markets. A Business Plan must be included with all commercial applications.

Management Plan. The Management Plan must conform pursuant to HAR, Chapter 13-5, Section 13-5-39 and Exhibit 3.

## 5. Environmental Requirements

Pursuant to HRS, Department of Health (DOH), Chapter 343, and in accordance with HAR, Title 11, Chapter 200, Environmental Impact Statement Rules for applicant actions, a Draft EA of the proposed use must be attached. The FEA must be published forty-five (45) days prior to the 180-day expiration deadline. A FEA or EIS provided at the time of submission of the CDUA will satisfy this requirement. Failure to meet this deadline may result in negative action on the applicant by the BLNR. If your proposed use is likely to have significant impacts and requires an EIS, pursuant to HAR, Title 11, Chapter 200, Section 12, please confer with the OCCL prior to submitting the CDUA.

If the proposed actions are within the scope of exemptions as defined in the DOH's, HRS, Title 11, Chapter 200, the applicant should provide written justification for the exemption to forego this process. Refer to HAR, Chapter 200, Section 11-200-8. For more information, contact the Office of Environmental Quality Control at (808) 586-4185 or visit [www.state.hi.us/health/oeqc](http://www.state.hi.us/health/oeqc).

## 6. Conservation District Use Application (CDUA) fees

Pursuant to HAR, Chapter 13-5, Section 13-5-32, FEES, applications must be accompanied by filing fees in the form of cash, certified check or cashier's check and payable to the State of Hawaii.

### Board Permit

\$100.00 application fee, plus an additional \$100.00 per potential developed acre, or major fraction thereof, up to a maximum of \$2,000.00.

### Departmental Permit

\$50.00 application fee

### Site Plan Approval

\$50.00 fee

### Emergency Permit

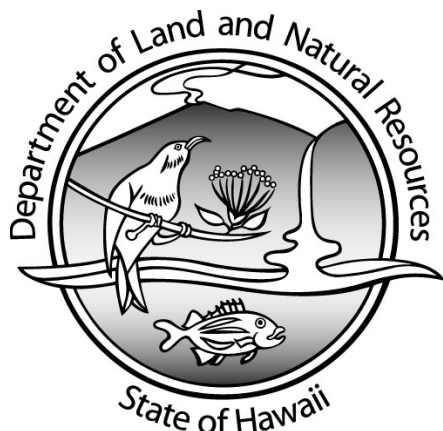
Waived

### Temporary Variance

\$100.00 fee

A Public Hearing fee of \$250.00 will be required, pursuant to HAR, Chapter 13-5, Section 13-5-40, HEARINGS. A Public Hearing(s) shall be held for all applications involving the following:

- On all applications for a proposed use of land for commercial purposes;
- On changes of subzone, changes on identified land use, or any amendments to this chapter;
- On applications requiring a Board permit in the protective subzone; and
- On all applications determined by the Chairperson that the scope of the proposed use, or the public interest requires a public hearing on the application.

**CONSERVATION DISTRICT USE APPLICATION STATE MARINE WATERS****For DLNR Use**

File # \_\_\_\_\_

Reviewed by \_\_\_\_\_

Date \_\_\_\_\_

Accepted by \_\_\_\_\_

Date \_\_\_\_\_

180-Day Exp. \_\_\_\_\_

EA/EIS Required \_\_\_\_\_

PH Required \_\_\_\_\_

Decision \_\_\_\_\_

Date \_\_\_\_\_

**TYPE OF PERMIT**

BOARD PERMIT \_\_\_\_\_

DEPARTMENTAL PERMIT \_\_\_\_\_

SITE PLAN APPROVAL \_\_\_\_\_

Project Location \_\_\_\_\_

District: \_\_\_\_\_ County: \_\_\_\_\_

Island: \_\_\_\_\_

Commencement Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

**REQUIRED SIGNATURES**

STATE OF HAWAII  
 Chairman: Peter T. Young  
 State of Hawaii  
 Department of Land and Natural Resources  
 P.O. Box 621  
 Honolulu, Hawaii 96809-0621

Signature: \_\_\_\_\_ (Applicant -leave blank)

APPLICANT

Legal Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State and Zip+4 Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State and Zip+4 Code: \_\_\_\_\_

Contact Person &amp; Title: \_\_\_\_\_

Phone No.:(\_\_\_\_\_) \_\_\_\_\_ Fax No.:(\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Interest in Property: \_\_\_\_\_

**\*Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

\*If for a Corporation, Partnership, Agency or Organization, must be signed by an authorized officer.

PROPERTY OWNER(S) *(If other than the applicant)*

Legal Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State and Zip+4 Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State and Zip+4 Code: \_\_\_\_\_

Contact Person &amp; Title: \_\_\_\_\_

Phone No.:(\_\_\_\_\_) \_\_\_\_\_ Fax No.:(\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to applicant: \_\_\_\_\_

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

AGENT

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State and Zip+4 Code: \_\_\_\_\_

Contact Person &amp; Position: \_\_\_\_\_

Phone No.:(\_\_\_\_\_) \_\_\_\_\_ Fax No.:(\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

CONTRACTOR

Name: \_\_\_\_\_ Contractor I.D. # \_\_\_\_\_

Scope of Work: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person &amp; Position Title: \_\_\_\_\_

Phone No.:(\_\_\_\_\_) \_\_\_\_\_ Fax No.:(\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Emergency Contact Information

Company/OrganizationName: \_\_\_\_\_

Contact Person and Title \_\_\_\_\_

Phone No.:(\_\_\_\_\_) \_\_\_\_\_ Phone No.:(\_\_\_\_\_) \_\_\_\_\_

**PROPOSED USE**

Please provide a statement of the purpose for the project.

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**CHAPTER 190D REQUIREMENTS**

Describe the location and boundaries of the state marine waters to be used, and the nature of the use desired. Describe if the proposed project requires exclusive use and acreage required. Designate the area on aerial photographs, maps, charts and other diagrams that describe the proposed area of use.

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Please submit a statement of the reasons for selecting a proposed location.

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Include general descriptions of the activities to be conducted, including a specification as to whether such activities are commercial or noncommercial, a timetable for construction, deployment, and operation of facilities, and planned levels of productions.

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Where the application is for mariculture, a description of the species to be cultivated and produced.

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Please provide a statement of the extent to which the proposed activities will interfere with the use of marine waters for the purpose of navigation, fishing, and public recreation.

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Please describe any enclosures, fences, stakes, buoys, or monuments proposed to mark off the desired area.

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Please discuss the extent to which the proposed activity may have a significant adverse effect upon any existing private industry or public activity, including the use of state marine waters for the purpose of navigation, fishing, and public recreation.

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Please discuss whether the proposed activity may have an adverse or permanent effect upon the wildlife, aquatic life, or environment of the surrounding area

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Please discuss other potential uses of the area, including competing uses, which may be in the public interest.

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Please discuss whether the applicant has the capacity to carry out the entire project.

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Please discuss whether the proposed project is clearly in the public interest upon consideration of the overall economic, social, and environmental impacts.

#### **CONSERVATION DISTRICT REQUIREMENTS**

Please demonstrate that the proposed use is consistent with the following criteria. Refer to HAR, Chapter 13-5, Section 13-5-30 for criteria.

Is the proposed land use consistent with the purpose of the Conservation District?

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Is the proposed use consistent with the objectives of the subzone of the land in which the use will occur?



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Does the proposed land use comply with provisions and guidelines contained in Chapter 205A, Hawaii Revised Statutes (HRS), entitled "Coastal Zone Management," where applicable?

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Describe how the proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

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Describe how the proposed land use, including buildings, structures and facilities, will be compatible with the locality and surrounding areas, and to the physical conditions and capabilities of the specific parcel or parcels.

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Describe how the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon.

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If applicable, describe how subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.

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Describe how the proposed land use will not be materially detrimental to the public health, safety and welfare.

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#### **ADDITIONAL INFORMATION**

Articles IX and XII of the State Constitution, other state laws, and the courts of the State require government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. The DOH, Chapter 343 requires an EA/EIS to discuss cultural resources in determining the significance of a proposed project.

Please provide the identity and scope of "valued cultural, historical and natural resources" in which traditional and customary native Hawaiian rights are exercised in the area.

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Identify the extent to which those resources, including traditional and customary Native Hawaiian rights, will be affected or impaired by the proposed action.

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What feasible action, if any, could be taken by the BLNR in regards to your application to reasonably protect native Hawaiian rights?

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Does the proposed land use have an effect (positive/negative) on public access to and along the shoreline or along any public trail?

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Does the proposed use have an effect (positive/negative) on beach processes?

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Will the proposed use cause increased runoff or sedimentation?

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Will the proposed use cause any visual impact on any individual or community?

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**REQUIREMENTS APPLICABLE TO MARICULTURE PROJETS**

Total Area of Proposed Use (square feet/acres) \_\_\_\_\_

Total Area of Proposed Exclusive Use (square feet/acres) \_\_\_\_\_

Total Number of Proposed Cages \_\_\_\_\_

Longitude and Latitude points of Center of Cages \_\_\_\_\_

Describe type of cages to be used, submerged and/or surface cages.

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Describe limitations on public access and how the public would be notified of limitations on public access. Provide descriptions and diagrams of any public access lanes to be provided or allowed across or around the area.

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Describe proposed ocean use management in the area, both within and nearby the proposed lease area. Describe if boats will be utilized and its purpose. Describe any commercial or educational tours proposed. If the proposed site will be used by the public, other parties or the applicant describe how the leased area and its environs will be managed.

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Describe the environment and existing uses at the area and the surrounding area. Provide aerial and other relevant photographs of the area, its surrounding environment and the shoreline nearest the area. Provide surveys or diagrams of the physical features of the area including the area's submarine topography. Include existing (before) and proposed (after) graphics.

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Provide surveys, diagrams and photographs of benthic habitat features at the proposed site and the surrounding area. Locate coral reefs within the vicinity and the surrounding area on diagrams or surveys. Include marine life surveys. Indicate if any rare, threatened or endangered plants or animals occur at the area or the surrounding area. Locate and identify threatened, and/or endangered species.

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Provide a survey and a description of current users (military, governmental, commercial, recreational, and cultural) and their uses of the state marine waters requested for lease, including any practitioners of traditional and customary Native Hawaiian rights. Identify surrounding land and ocean uses and their operators.

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Discuss in detail the applicant's related expertise, research, planning efforts, similar projects completed or participated in and other related projects previously or currently undertaken that aide in the conduct of the proposed project or provide valuable experience. Provide relevant project results, if applicable.

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Discuss information regarding environmental, economic or research issues related to the size and location of the proposed use.

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List each proposed structure, project element and use. Indicate the area required for each individual structure, project element or use. Indicate the duration for each structure, project element or use. Provide an overall site plan that shows the location of the structures or elements of the proposed uses in relation to the surrounding environment.

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Please note a Management Plan for any Mariculture/Aquaculture use must include a discussion of the requirements identified in HAR, Chapter 13-5, Section 13-5-39, and Exhibit 3.

The following information needs to be answered in the Management Plan: 1) location of proposed aquaculture farm (include water depth, general site description); 2) number of acres and square feet; 3) longitude and latitude coordinates; 4) acres and/or square footage of exclusive use (if any); 5) fish species to be cultured; 6) hatchery and/or stock techniques; 7) sea cage(s) description and diagrams (i.e. size of cages, number of cages, type of cages (submersible and/or surface cages), moorings, Coast Guard regulations regarding surface obstructions, cage mesh; 8) sea cage(s) construction plan (deployment, construction, anchoring); 9) Operations (species biology, spawning, stocking, feeding, farm biology, population genetics, disease, harvesting, productive lifespan and farm waste, rearing, breeding, harvesting, damage assessments, maintenance, cleaning of cages); 10) work vessel(s) (type, location of anchorage); 11) number of crew; 12) work hours; 13) estimated total annual production numbers; and 14) how cages will be removed. The Management Plan should include

the following diagrams: 1) sea cage(s) type; 2) arrangement of cages; and 3) mooring and anchoring.

**Adjacent Property Owners**

Please list all adjacent property owners. If no address is available indicate north, south, east and west or mauka, makai or other common county directionals.

TMK: \_\_\_\_\_  
Legal Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip code: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Location to TMK: \_\_\_\_\_

TMK: \_\_\_\_\_  
Legal Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip code: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Location to TMK: \_\_\_\_\_

TMK: \_\_\_\_\_  
Legal Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip code: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Location to TMK: \_\_\_\_\_

TMK: \_\_\_\_\_  
Legal Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip code: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Location to TMK: \_\_\_\_\_

## CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ THIS COMPLETED APPLICATION AND THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION IN THIS APPLICATION AND ALL ATTACHMENTS AND EXHIBITS IS COMPLETE AND CORRECT. I UNDERSTAND THAT THE FAILURE TO PROVIDE ANY REQUESTED INFORMATION OR MISSTATEMENTS SUBMITTED IN SUPPORT OF THE APPLICATION SHALL BE GROUNDS FOR EITHER REFUSING TO ACCEPT THIS APPLICATION, FOR DENYING THE PERMIT, FOR SUSPENDING OR REVOKING A PERMIT ISSUED ON THE BASIS OF SUCH MISREPRESENTATIONS, OR FOR SEEKING OF SUCH FURTHER RELIEF AS MAY SEEM PROPER TO THE LAND BOARD.

I HEREBY AUTHORIZE REPRESENTATIVES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONDUCT SITE INSPECTIONS ON MY PROPERTY. UNLESS ARRANGED OTHERWISE, THESE SITE INSPECTIONS SHALL TAKE PLACE BETWEEN THE HOURS OF 8:00 A.M. AND 4:30 P.M.

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*Signature of Authorized Agent(s) or if no agent, signature of **Applicant***

## AUTHORIZATION OF AGENT

I HEREBY AUTHORIZE \_\_\_\_\_ TO ACT AS MY REPRESENTATIVE AND TO BIND ME IN ALL MATTERS CONCERNING THIS APPLICATION.

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*Signature of Applicant(s)*